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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,459	07/20/2000	Gary Scott Stevens	10731.20USC1	3803

23552 7590 05/01/2003

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EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 05/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/620,459

Applicant(s)  
Stevens, Gary Scott

Examiner  
Pierre E. Elisca

Art Unit  
3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THree MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02/21/2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5, And 7-12 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10, And 11-17 is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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**DETAILED ACTION**  
**RESPONSE TO AMENDMENT**

1. This Office is in response to Applicant's Response, filed on 02/21/2003.
2. Claims 1-5, and 7-17 are pending.

**ALLOWABLE SUBJECT MATTER**

3. Claims 10-17 are allowed over the prior art of record.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-5, and 7-9 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Schieve et al. (U.S. Pat. No. 5,455,933) in view of Cheffetz et al. (U.S. Pat. No. 5,133,065).

As per claims 1, 4, and 7-9 Schieve substantially discloses a method/system for remote diagnosis of personal computers (which is readable as Applicant's claimed invention wherein it is stated that a computer program pre-recorded on a removable storage medium, the removable storage device of a local computer), the system comprising the steps of:

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a remote data recovery operating program locally operable by a central processing unit of the local computer (see., abstract, col 3, lines 1-15, lines 43-49, col 4, lines 60-67); communication program means for establishing communication (see., abstract, col 3, lines 49-63, col 5, lines 1-21). Schieve fails to disclose a method for remotely recovery data from the computer.

However, Cheffetz discloses a computer network for backing up computer data and program files onto backup media for subsequent restoring in the event the files are inadvertently corrupted or destroyed (see., abstract, col 1, lines 7-14). Though it is common in the art that fault recovery system (or fail-safe system) is a system designed to continue operating without loss of or damage to programs and data, when part of the system breaks down or seriously malfunction. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the remote diagnosis of personal computer of Schieve et al by including a backup computer as taught by Cheffetz et al because such modification would provide the remote diagnosis of personal computer of Schieve et al with a backup media for subsequent restoring in the event files are corrupted, destroyed or deleted, the newest copies of such files may be restored from the incremental or baselines backups (see., col 1, lines 7-54). Applicant's newly added limitation for diagnosis and rectifying data on the local computer is also disclosed by Schieve et al. in col 3, lines 44-63, specifically wherein it is stated that remotely diagnosis faults on a PC comprising the steps of confirming or rectifying an existence and a proper operation of a modem coupled to the PC...

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**As per claim 2, Schieve** discloses the claimed limitation, wherein the remote data recovery operating program comprises a data recovery diagnostic program (see., abstract).

**As per claim 3, Schieve** discloses the claimed limitation, wherein the remote data recovery operating program comprises a data recovery application program (see., col 6, lines 57-63, abstract, please note that booting computer or application program).

**As per claim 5, Schieve** discloses the claimed limitation, wherein the step of establishing a communications link comprises establishing a communications link over one of the group consisting of a modem, a local area network, a wide area network and Internet (see., col 6, lines 21-37, please note that it is obvious to realize that the serial link that comprises a telephone line to a remote location can also be an Internet or a local are network).

#### **REMARKS**

6. In response to Applicant's arguments, Applicant argues that the prior art of record do not teach or suggest: " a computer program including a remote data recovery operating program pre-recorded on a removable storage medium". As indicated above, this limitation is disclosed by Schieve in the abstract, col 3, lines 1-15, lines 43-49, col 4, lines 60-67.

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**CONCLUSION**

7. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

**Any response to this action should be mailed to :**

Commissioner of Patents of Trademarks

Washington, D. C. 20231

The Official Fax Number For TC 3600 is:

**(703) 305-7687**

  
Pierre Eddy Elisca

Patent Examiner

**April 28, 2003**